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Title: Ordinance amending the Pittsburgh City Code, Title Six: Conduct, Article VI: Citizen Police Review Board.

Sponsors: R. Daniel Lavelle, Patrick Dowd, Douglas Shields

Indexes: PGH. CODE ORDINANCES TITLE 01 - ADMINISTRATIVE

Code sections:

Attachments: 1. 2010-0711.docx, 2. 2010-0711 VERSION 2.doc, 3. 2010-0711 VERSION 3.doc, 4. 2010-0711 VERSION 4.doc

Date	Ver.	Action By	Action	Result
8/3/2010	4	Mayor	Signed by the Mayor	
8/2/2010	4	City Council	AMENDED	Pass
8/2/2010	4	City Council	AMENDED	Fail
8/2/2010	4	City Council	Passed Finally, As Amended	Pass
7/28/2010	3	Standing Committee		
7/28/2010	3	Standing Committee		
7/27/2010	2	City Council	RECOMMENDED	Pass
7/21/2010	2	Standing Committee	AMENDED BY SUBSTITUTE	Pass
7/21/2010	2	Standing Committee	Affirmatively Recommended as Amended	Pass
7/19/2010	1	Committee on Hearings	Public Hearing Held	
7/14/2010	1	Standing Committee		
7/6/2010	1	City Council	Read and referred	

Ordinance amending the Pittsburgh City Code, Title Six: Conduct, Article VI: Citizen Police Review Board.

The Council of the City of Pittsburgh hereby enacts as follows:

Section 1. The Pittsburgh City Code is hereby amended at Title Six: Conduct, Article VI: Citizen Police Review Board, by amending Chapters 661 FINDING AND POLICY and 662, Citizen Police Review Board, as follows:

§ 661.01 DEFINITIONS

(a) **MISCONDUCT.** As used in this Article is defined to mean and include any alleged improper or illegal acts, omissions or decisions directly affecting the person or property of a natural person by reason of:

(1) A violation of any general, standing or special orders or guidelines of the Police Bureau or the Department of Public Safety; or

(2) A violation of any federal law, state law or the Pittsburgh Code;

(3) Any act otherwise evidencing improper or unbecoming conduct by a police officer employed by the City of Pittsburgh.

(b) **BOARD**. As used in this Article is defined to mean the Citizen Police Review Board established pursuant to sections 228230 of the City of Pittsburgh Home Rule Charter.

(c) **DIVERSITY**. As used in this Article is defined to mean the rich mixture of people who inhabit the City of Pittsburgh in terms of race, color, religion, ancestry, national origin, place of birth, sex, sexual orientation, familial status, age, handicap, disability, and economic status.

(d) **LAW ENFORCEMENT PROFESSIONAL**. As used in this Article shall include, but not be limited to, police officers employed by any local, state or federal governmental entity, including municipal authorities, sheriffs or sheriffs deputies, agents of the Federal Bureau of Investigation, Central Intelligence Agency, U.S. Marshals, employees of the U.S. Attorney's office, employees of a state attorney general's office, employees of a county District Attorney's office, corrections officers, detention officers, jailguards or other prison employees.

(e) **LAW ENFORCEMENT OFFICER**. As used in this Article shall include, but not be limited to, police officers employed by any local, state, or federal governmental entity, including municipal authorities, sheriffs or sheriffs deputies, agents of the Federal Bureau of Investigation,

Central Intelligence Agency, U.S. Marshals, employees of the U.S. Attorney's office, employees of a state attorney general's office, and employees of a county District Attorney's office. For purposes of this Article, however, **LAW ENFORCEMENT OFFICER** shall not be construed to include corrections officers, detention officers, jailguards or other prison employees.

(f) **BAD FAITH**. As used in this Article refers to when an individual acts fraudulently, dishonestly, or in a corrupt manner in initiating and/or pursuing a complaint of misconduct.

(g) **OMI**. As used in this Article refers to the Office of Municipal Investigations or its successor administrative unit, which is the unit of the executive branch directed to investigate police misconduct.

(a) **MISCONDUCT**. As used in this Article is defined to mean and include any alleged improper or illegal acts, omissions or decisions directly affecting the person or property of a natural person by reason of:

(1) A violation of any general, standing or special orders or guidelines of the Police Bureau or the Department of Public Safety; or

(2) A violation of any federal law, state law or the Pittsburgh Code;

(3) Any act otherwise evidencing improper or unbecoming conduct by a police officer employed by the City of Pittsburgh.

(b) **BOARD**. As used in this Article is defined to mean the Citizen Police Review Board established pursuant to sections 228230 of the City of Pittsburgh Home Rule Charter.

(c) DAY(s) As used in this Article means calendar day(s).

(ed) **DIVERSITY.** As used in this Article is defined to mean the rich mixture of people who inhabit the City of Pittsburgh in terms of race, color, religion, ancestry, national origin, place of birth, sex, sexual orientation, familial status, age, handicap, disability, and economic status.

(de) **LAW ENFORCEMENT PROFESSIONAL.** As used in this Article shall include, but not be limited to, police officers employed by any local, state or federal governmental entity, including municipal authorities, sheriffs or sheriffs deputies, agents of the Federal Bureau of Investigation, Central Intelligence Agency, U.S. Marshals, employees of the U.S. Attorney's office, employees of a state attorney general's office, employees of a county District Attorney's office, corrections officers, detention officers, jailguards or other prison employees.

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(gh) **OMI.** As used in this Article refers to the Office of Municipal Investigations or its successor administrative unit, which is the unit of the executive branch directed to investigate police misconduct.

(i) Vacancy. As used in this Article refers to the status of an appointed member's seat and is deemed upon written resignation, death, disqualification of residency, criminal conviction of a felony or misdemeanor, conviction of any domestic violence crime, medically declared incapacity. A term expiration does not constitute a vacancy.

§ 662.04 BOARD MEMBERS.

(a) The Board shall consist of seven (7) members reflecting Pittsburgh's diversity, who shall be appointed by the Mayor. Four (4) of the original members shall be appointed to four (4) year terms and three (3) shall be appointed to two (2) year terms, and all shall serve until the appointment of their successors. Persons appointed to fill vacancies shall serve for the balance of the terms for which their predecessors were appointed. All other appointments shall be for terms of four (4) years.

(b) All appointees and sitting board members, shall be residents of the City of Pittsburgh, shall not be employed by the City or any of its authorities, shall not hold any other public office and shall serve without compensation. Board members may, however, be reimbursed for expenses incurred in the direct implementation of the Board's responsibilities. No resident who has been convicted of a felony or a misdemeanor, excluding summary offenses, shall serve as a Board member. Persons appointed to the Board shall be fair minded and committed to the efficient and effective operation of the Board.

(c) The Mayor shall make appointments in the following manner:

(1) Four (4) appointments, of which two (2) shall be for initial four (4) year terms and two (2) for initial two (2) year terms, shall be made from a list of nine (9) nominations submitted to the Mayor by the City Council. Council will forward such nominations to the Mayor by resolution and shall do so no later than thirty (30) days prior to the effective date of this Chapter.

(2) In appointing Board members to fill vacancies or expired terms, if the vacancy or expired term has been

created by the departure, for whatever reason, of one (1) of the four (4) Board members appointed from City Council's nominations, the Mayor shall fill such vacancy or expired term by appointing the Board member from a new list of three (3) nominations submitted by Council by resolution. Nominations must be forwarded to the Mayor no later than thirty (30) days notification to Council by the Board that a vacancy or expired term exists. If the Mayor fails to appoint Board members within sixty (60) days of being forwarded nominations, Council shall appoint Board members for any existing Council-nominated vacancies or expired terms.

(d) In making such nominations and appointments to the Board, the Mayor and Council shall use their best efforts to create and maintain a Board reflecting the diversity in the population of the City. The Board shall be comprised of at least one, but no more than two (2) persons who are experienced as law enforcement professionals. However, no Board member shall be a sworn, currently employed, law enforcement officer. When a vacancy seated by a law enforcement professional occurs, Council and the Mayor shall select a replacement member with a law enforcement background.

(a) The Board shall consist of seven (7) members reflecting Pittsburgh's diversity, who shall be appointed by the Mayor. Four (4) of the original members shall be appointed to four (4) year terms and three (3) shall be appointed to two (2) year terms, and all shall serve until the appointment of their successors. Persons appointed to fill vacancies shall serve for the balance of the terms for which their predecessors were appointed. All other appointments shall be for terms of four (4) years.

(b) All appointees and sitting board members shall be residents of the City of Pittsburgh, shall not be employed by the City or any of its authorities, shall not hold any other public office and shall serve without compensation. Board members may, however, be reimbursed for expenses incurred in the direct implementation of the Board's responsibilities. No resident who has been convicted of a felony or a misdemeanor, excluding summary offenses, shall serve as a Board member. Persons appointed to the Board shall be fair minded and committed to the efficient and effective operation of the Board. If at any point a board member no longer maintains City residency, they shall immediately forfeit their position on the board.

(c) The Mayor shall make appointments for the inaugural board in the following manner:

Four (4) appointments, of which two (2) shall be for initial four (4) year terms and two (2) for initial two (2) year terms, shall be made from a list of nine (9) nominations submitted to the Mayor by the City Council. Council will forward such nominations to the Mayor by resolution and shall do so no later than thirty (30) days prior to the effective date of this Chapter.

(d) To ensure a properly constituted board is seated prior to City Council's August recess, City Council shall submit a list of nine (9) nominations to the Mayor for consideration via resolution on July 27, 2010. Each member shall submit one (1) nomination for consideration. Four (4) appointments shall be made from the list of nine nominations submitted to the Mayor by the City Council, and the Mayor shall add 3 names to form a properly constituted board.

(e) After seating of the appointments made in 2010, successive members shall be selected in the following manner:

(1) One hundred and eighty (180) days prior to any member's term expiration the ICPRB Chair shall cause the public to be notified of the pending expiration of the term of the member(s). Public notice shall identify the Seat occupied, the name of the member whose term is to expire, the date they were appointed and the date their term expires, identify if the member is a mayoral appointment, a City Council appointment, and/or if the member has had experience in law enforcement.

(2) One hundred and fifty (150) days prior to any member's term expiration the ICPRB Chair shall send notice of the pending expiration of the term of the member(s) to all members of the ICPRB, the Board's executive director, the Mayor, City Council, the City Clerk, and the City Solicitor. The notice shall identify the

name of the member whose term is to expire, the date they were appointed and the date their term expires, declare if the member is a designated mayoral appointment, a designated City Council appointment, and/or if the member has had experience in law enforcement.

(3) (i) Ninety (90) days prior to the term expiration of a City Council appointment, City Council shall provide notice to the mayor of the impending term expiration date, the identified incumbent(s), the occupied Seat(s), the date of original appointment(s), whether the incumbent(s) served as a Law Enforcement Professional (LEP) and shall provide a new list of three (3) nominations submitted by Council by resolution, each nominee's LEP status and each nominee's validation of qualification to serve as a Board member.

(ii) Sixty (60) days prior to the term expiration of a City Council nominated appointee, the Mayor shall provide notice to City Council of the impending term expiration date, the identified incumbent, the occupied Seat, the date of original appointment, whether the incumbent served as a Law Enforcement Professional (LEP) and shall provide the nominated successor's name, term period, LEP status and validation of qualification to serve as a Board member.

(iii) If the Mayor fails to appoint Board members within (30) days of being forwarded nominations, Council shall appoint Board members for any existing Council nominated vacancies or expired terms.

(4) Sixty (60) days prior to the term expiration of a mayoral appointment, the Mayor shall provide notice to City Council of the impending term expiration date, the identified incumbent, the occupied Seat, the date of original appointment, whether the incumbent served as a Law Enforcement Professional (LEP) and shall provide the nominated successor's name, LEP status and validation of qualification to serve as a Board member.

(5) City Council shall initiate the confirmation process for the nominated successor appointee(s) upon receipt of the Mayor's notice of nomination(s) of successor appointee(s) for mayoral and City Council seats. City Council shall provide notice by resolution to the Mayor of the approval or disapproval of the appointment (s) no later than fifteen (15) days prior to the expiration of the subject term.

(6) The Mayor shall execute the appointment of approved nominees no later than five (5) days prior to the expiration of the subject term.

(7) The appointee(s) shall be sworn into the office and serve until their appointed term expires, they are reappointed, the appointee becomes disqualified or no more than 30 days after their term expires and a successor is appointed or the appointing authority fails to act.

(8) Should the Mayor, at any point, fail to follow the notification process, City Council reserves the right to appoint new members at their discretion.

(9) Should City Council fail to submit 3 names for each opening on the ICPRB Board, the Mayor is given the right to appoint at his discretion.

(f) In making such nominations and appointments to the Board, the Mayor and Council shall use their best efforts to create and maintain a Board reflecting the diversity in the population of the City. The Board shall be comprised of two (2) persons who are experienced as law enforcement professionals. However, no Board member shall be a sworn, currently employed, law enforcement officer. When a vacancy seated by a law enforcement professional occurs, Council and the Mayor shall select a replacement member with a law enforcement background.

(a) The Board shall consist of seven (7) members reflecting Pittsburgh's diversity, who shall be appointed by the Mayor. Four (4) of the original members shall be appointed to four (4) year terms and three (3) shall be appointed to two (2) year terms, and all shall serve until the appointment of their successors. Persons appointed to fill vacancies shall serve for the balance of the terms for which their predecessors were appointed. All other appointments shall be for terms of four (4) years.

(b) All appointees and sitting board members shall be residents of the City of Pittsburgh, shall not be employed by the City or any of its authorities, shall not hold any other public office and shall serve without compensation. Board members may, however, be reimbursed for expenses incurred in the direct

implementation of the Board's responsibilities. No resident who has been convicted of a felony or a misdemeanor, excluding summary offenses, shall serve as a Board member. Persons appointed to the Board shall be fair minded and committed to the efficient and effective operation of the Board.

1. In the event an appointee is confirmed to be a member of the Board they shall maintain their city residency in order to maintain the ability to serve as a member of the board.
2. In the event that a member of the board should no longer be a city resident, that member shall immediately convey written notice of their non-residency status and their ensuing inability to serve to the Chair and Vice Chair of the board. Such notice shall be deemed a resignation from the Board. If the Member sends notice in advance of their actual non-residency status they may serve until the date the actual non-residency status takes effect.
3. In the event that the member fails to disclose a change in residency which would disqualify the member from serving as a member of the board and that disqualification is alleged by anyone, discovered or otherwise comes to the attention of the executive director or Chair of the board, the residency shall be verified by the executive director and conveyed to the Chair of the board. If the subject residency is found to disqualify the member, the seat will be deemed vacant.
4. Upon receipt of said notice, the Chair shall take appropriate action to notice all other board members, the Mayor, City Council, the City Clerk, and the City Solicitor that a vacancy exists on the Board.

(c) The Mayor shall make appointments for the inaugural board in the following manner: Four (4) appointments, of which two (2) shall be for initial four (4) year terms and two (2) for initial two (2) year terms, shall be made from a list of nine (9) nominations submitted to the Mayor by the City Council. Council will forward such nominations to the Mayor by resolution and shall do so no later than thirty (30) days prior to the effective date of this Chapter.

(d) ~~To ensure the current expired terms are properly addressed prior to City Council's recess on August 3, 2010,~~ City Council shall submit a list of up to nine (9) nominations to the Mayor for consideration via resolution. Each member may submit one (1) nomination for consideration. Four (4) appointments shall be made from the list of up to nine (9) nominations submitted to the Mayor by the City Council, and the Mayor shall add three (3) names to form a properly constituted board.

(e) After seating of the appointments made in 2010, successive members to fill expired terms shall be selected in the following manner:

(1) One hundred and eighty (180) days prior to any member's term expiration the board Chair shall cause the public to be notified of the pending expiration of the term of the member(s). Public notice shall identify the Seat occupied, the name of the member whose term is to expire, the date they were appointed and the date their term expires, identify if the member is a mayoral appointment, a City Council appointment, and/or if the member has had experience in law enforcement.

(2) One hundred and fifty (150) days prior to any member's term expiration the board Chair shall send notice of the pending expiration of the term of the member(s) to all members of the board, the Board's executive director, the Mayor, City Council, the City Clerk, and the City Solicitor. The notice shall identify the name of the member whose term is to expire, the date they were appointed and the date their term expires, declare if the member is a designated mayoral appointment, a designated City

Council appointment, and/or if the member has had experience in law enforcement.

(3) (i) Ninety (90) days prior to the term expiration of a City Council appointment, City Council shall provide notice to the mayor of the impending term expiration date, the identified incumbent(s), the occupied Seat(s), the date of original appointment(s), whether the incumbent(s) served as a Law Enforcement Professional (LEP) and shall provide a new list of three (3) nominations submitted by Council by resolution, each nominee's LEP status and each nominee's validation of qualification to serve as a Board member.

(ii) The three (3) nominees for each City Council appointment shall be selected in the following manner:

a. The Council President creates three (3) sub-committees of City Council, each of which selects one (1) nominee to submit to the Mayor. No Council member shall serve on more than one (1) sub-committee. In the event of a vacancy within a Council office, the President shall appoint at their discretion a sub-committee of no less than two (2) members.

b. Each sub-committee nominee is submitted to the President who shall, at their discretion, guarantee that no one person is nominated by more than one sub-committee.

c. Once the three (3) nominees have been submitted and received by the President, all three (3) nominees are sent to the Mayor via resolution.

(iii) Sixty (60) days prior to the term expiration of a City Council nominated appointee, the Mayor shall provide notice to City Council of the impending term expiration date, the identified incumbent, the occupied Seat, the date of original appointment, whether the incumbent served as a Law Enforcement Professional (LEP) and shall provide the nominated successor's name, term period, LEP status and validation of qualification to serve as a Board member.

(iii) iv) If the Mayor fails to appoint Board members within (30) days of being forwarded nominations, City Council shall appoint Board members via resolution for any existing Council nominated expired terms. The selection shall be made from the list of three (3) nominees originally submitted to the Mayor.

(4) Sixty (60) days prior to the term expiration of a mayoral appointment, the Mayor shall provide notice to City Council of the impending term expiration date, the identified incumbent, the occupied Seat, the date of original appointment, whether the incumbent served as a Law Enforcement Professional (LEP) and shall provide the nominated successor's name, LEP status and validation of qualification to serve as a Board member.

(5) City Council shall initiate the confirmation process for the nominated successor appointee(s) upon receipt of the Mayor's notice of nomination(s) of successor appointee(s) for mayoral and City Council seats. City Council shall provide notice by resolution to the Mayor of the approval or disapproval of the appointment(s) no later than fifteen (15) days prior to the expiration of the subject term.

(6) The Mayor shall execute the appointment of approved nominees no later than five (5) days prior to the expiration of the subject term.

(7) The appointee(s) shall be sworn into the office and serve until their appointed term expires, they are reappointed, the appointee becomes disqualified or no more than 30 days after their term expires and a successor is appointed or the appointing authority fails to act.

(8) Should the Mayor, at any point, fail to follow the notification process, City Council reserves the right to appoint ~~new members via resolution~~ a new nominee by a majority vote during a legislative session of City Council. Once a nomination has been made, Council shall schedule an interview and follow with a majority vote to confirm the nominee during a legislative session of City Council. In the event a nominee fails to receive a majority vote, Council shall repeat the process with a new nominee until an appointment is confirmed by majority vote.

(9) Should City Council fail to submit three (3) names for each opening on the board Board, the Mayor is given the right to appoint a member of his or her choosing.

(f) After seating of the appointments made in 2010, when a vacancy occurs the board chair shall provide written notice of the vacancy to all members of the board, the Board's executive director, the Mayor, City Council, the City Clerk, and the City Solicitor.

(1) The notice shall contain: the name of the member whose seat has been vacated, the seat held by the member, the date the member was appointed and the date the term expires, the reason for the vacancy, and if the member was appointed as a designated Law Enforcement Professional (LEP).

(2) Within 30 days of the notice from the board chair that a vacancy exists in a seat appointed by City Council, City Council shall submit a list of three (3) nominations to the Mayor for consideration via resolution. . City Council shall follow the process delineated in (e)(3)(ii) to select each nominee. The Mayor shall submit an appointee from the list of three (3) nominees to City Council for confirmation.

(3) Within 30 days of notice from the board chair that a vacancy exists in a term appointed by the Mayor, the Mayor shall submit an appointee to City Council for confirmation.

(g) In making such nominations and appointments to the Board, the Mayor and Council shall use their best efforts to create and maintain a Board reflecting the diversity in the population of the City. The Board shall be comprised of and no more than two (2) persons, one being Mayoral and one being Council, who are experienced as law enforcement professionals. However, no Board member shall be a sworn, currently employed, law enforcement officer. When a vacancy seated by a law enforcement professional occurs, Council and the Mayor shall select a replacement member with a law enforcement background.